IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 9407 of 2007(T)

PETITIONER:

CHINNAMMA, W/O.ULAHANNAN,
MOOZHIKKALIL HOUSE, MOTHIRAKKANNI,
PARIYARAM, MUKUNDAPURAM, THRISSUR.

BY ADV. SMT.S.MUMTAZ

RESPONDENTS:

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1. THE JOINT REGISTRAR (GENERAL),
OFFICE OF THE ASST. REGISTRAR OF CO-OPERATIVE SOCIETIES, THRISSUR.

2. THE KUTTIKKAD FARMERS SERVICE
CO-OPERATIVE BANK, REPRESENTED BY THE SECRETARY,
IRINJALAKKUDA, THRISSUR.

3. SALE OFFICER,
ASST. REGISTRAR OF CO-OPERATIVE SOCIETIES,
MUKUNDAPURAM, THRISSUR.

BY ADV. SRI.JOHNSON MANAYANI
SRI.P.V.PAULSON
SRI.GEORGE KURUVILLA(ALAPPUZHA)
SRI.V.AJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007 ALONG WITH WPC NO. 9126 OF 2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 **TRUE COPY OF THE NOTICE ISSUED BY THE THIRD RESPONDENT DTD. 13-2-07**

EXT.P2 **TRUE COPY OF THE REQUEST LETTER ISSUED BY THE PETITIONER TO THE SECOND RESPONDENT.**

RESPONDENT'S EXHIBITS

EXT.R2(A) **TRUE COPY OF THE AWARD DTD. 27-3-01 AGAINST THE PETITIONER AND HER HUSBAND IN ARC NO.682/01**

EXT.R2(B) **TRUE COPY OF THE AWARD DTD.27-3-01 AGAINST THE PETITIONER'S HUSBAND IN ARC NO.683/01**

EXT.R2(C) **TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DTD. 3-3-07**

EXT.R2(D) **TRUE COPY OF THE MORTGAGE DEED NO.1371/96 OF THE CHALAKKUDY SUB REGISTRY.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).NOs.9407 & 9126 of 2007

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Dated this the 6th day of July 2007

JUDGMENT

Petitioners are husband and wife. They availed a loan and the property of the petitioner in W.P.(C)No.9126/07 came to be mortgaged to the bank. The amount not being paid , the property was brought to sale. The petitioner in W.P.(C)No.9126/07 approached this court and obtained an interim order of stay on condition of payment of Rs. 40,000/- within one month. Petitioner in other writ petition namely the wife also got an order of stay on 20/03/2007 on condition of payment of Rs. 70,000/-. However it would appear that the stay order was not communicated and the sale took place and that is how the additional fourth respondent is made a party in the writ petitions. The additional fourth respondent had bid at the auction for an amount of RS. 7,01,000/-. He has deposited a sum of Rs. 1,05.150/- on 22/03/2007.

2. Learned counsel for the petitioners submits that some

breathing time may be given to the petitioners and the petitioners are also prepared to pay compensation to the additional fourth respondent as a condition for the sale not being confirmed. Learned counsel for the Bank submits that the amount due from the petitioners after giving credit to the amount already paid would come to Rs. 2,42,965/-.

The writ petition is disposed of as follows:

If the petitioners pay the entire amount namely Rs. 2,42,965/- within one month from today and also pay a sum of Rs.15,000/- to the respondent Bank, the sale in favour of the additional fourth respondent shall not be confirmed. The amount of Rs. 15,000/- over and above Rs. 2,42,965/- received from the petitioners shall be made over to the additional fourth respondent along with Rs. 1,05,150/- within three days from the date of receipt of the amount. In case petitioners fail to pay the amount as aforesaid, the sale in favour of the additional fourth respondent can be confirmed in accordance with law.

(K.M.JOSEPH, JUDGE)

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